

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION

2011 MAR 28 AM 3:15

SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

RUTH STOKES,

Plaintiff,

v.

No.

PORTFOLIO RECOVERY ASSOCIATES,
LLC,

Defendant.

1 : 11 -cv- 0 4 2 7 JMS -DML

PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, RUTH STOKES (Plaintiff), through her attorneys, KROHN & MOSS, LTD., alleges the following against Defendant, PORTFOLIO RECOVERY ASSOCIATES, LLC (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).
2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."

4. Defendant conducts business in the state of Indiana, and therefore, personal jurisdiction is established.
5. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.

PARTIES

6. Plaintiff is a natural person residing in Indianapolis, Marion County, Indiana.
7. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)*.
8. Defendant is a debt collector as that term is defined by *15 U.S.C. 1692a(6)*, and sought to collect a consumer debt from Plaintiff.
9. Defendant is a collection agency with a business office in Norfolk, Virginia.

FACTUAL ALLEGATIONS

10. Defendant is attempting to collect a debt from Plaintiff on behalf of the original creditor, Ashley Furniture Homestore, with an account number ending in 3484 (Defendant's File Number PRA2024447711015).
11. Plaintiff's alleged debt owed to Ashley Furniture Homestore arises from transactions for personal, family, and household purposes.
12. On February 2, 2010, Plaintiff's counsel faxed a cease and desist and a notice of representation letter to Defendant (Plaintiff's counsel's letter to Defendant and fax confirmation are attached as Group Exhibit A).
13. Despite receiving Plaintiff's counsel's letter (Exhibit A), Defendant communicated with Plaintiff after February 2, 2010, in an attempt to collect a debt (Defendant's letter to Plaintiff dated January 6, 2011, is attached as Exhibit B).

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

14. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692c(a)(2) of the FDCPA by communicating with Plaintiff even though Defendant knew Plaintiff was represented by an attorney.
- b. Defendant violated §1692c(c) of the FDCPA by communicating with Plaintiff after Defendant received Plaintiff's cease and desist letter.

WHEREFORE, Plaintiff, RUTH STOKES, respectfully requests judgment be entered against Defendant, PORTFOLIO RECOVERY ASSOCIATES, LLC, for the following:

15. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,
16. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k
17. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, RUTH STOKES, hereby demands trial by jury in this action.

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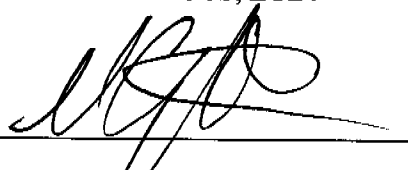
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Dated: March 23, 2011

RESPECTFULLY SUBMITTED,

KROHN & MOSS, LTD.

By: _____


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Attorney for Plaintiff,
RUTH STOKES

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF INDIANA

Plaintiff, RUTH STOKES, says as follows:

- 1 I am the Plaintiff in this civil proceeding.
- 2 I have read the above-entitled civil Complaint prepared by my attorneys and I believe that
all of the facts contained in it are true, to the best of my knowledge, information and
belief formed after reasonable inquiry
- 3 I believe that this civil Complaint is well grounded in fact and warranted by existing law
or by a good faith argument for the extension, modification or reversal of existing law.
- 4 I believe that this civil Complaint is not interposed for any improper purpose, such as to
harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a
needless increase in the cost of litigation to any Defendant(s), named in the Complaint
- 5 I have filed this Complaint in good faith and solely for the purposes set forth in it
- 6 Each and every exhibit I have provided to my attorneys which has been attached to this
Complaint is a true and correct copy of the original.
- 7 Except for clearly indicated redactions made by my attorneys where appropriate, I have
not altered, changed, modified or fabricated these exhibits, except that some of the
attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, RUTH STOKES, hereby declare (or certify, verify or
state) under penalty of perjury that the foregoing is true and correct

Date: _____

3/17/11

Ruth M. Stokes
RUTH STOKES